



IFW  
PATENT  
Customer No. 22,852  
Attorney Docket No. 02405.0285-00000

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re National Stage of International Application No. )  
PCT/SE2004/001626 under 35 U.S.C. § 371 of: )  
Lars LIDGREN et al. ) Group Art Unit: 3733  
Application No.: 10/578,734 ) Examiner: Jan Christop  
PCT Filed: November 10, 2004 ) MERENE  
§ 371 Date: May 10, 2006 ) Confirmation No.: 4470  
For: DEVICE FOR PROVIDING SPONGY BONE )  
WITH BONE SUBSTITUTE AND/OR BONE )  
REINFORCING MATERIAL, BONE )  
SUBSTITUTE AND/OR BONE )  
REINFORCING MATERIAL AND METHOD )

**Mail Stop – Amendment**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE TO RESTRICTION REQUIREMENT**

In a restriction requirement dated June 19, 2009, the Examiner required  
restriction under 35 U.S.C. §§ 121 and 372 between the following groups:

- Group I - Claims 1, 3, 5-52, 59 and 60, characterized by the Examiner as drawn to a device for providing spongy bone;
- Group II - Claims 53-55, characterized by the Examiner as drawn to a method for providing spongy bone;
- Group III - Claims 56 and 57, characterized by the Examiner as drawn to a method for providing spongy bone; and
- Group IV - Claim 58, characterized by the Examiner as drawn to a method for providing spongy bone.

Applicant elects, with traverse, the subject matter of Group I, comprising claims 1, 3, 5-52, 59 and 60, characterized by the Examiner as drawn to a device for providing spongy bone. Applicant does not necessarily agree with the Examiner's characterizations of the claims and their elements, and unless recited herein, declines to subscribe to the Examiner's comments. Applicant reserves the right to request rejoinder of the non-elected claims after examination on the merits.

Applicant respectfully refers the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows:

If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not shown that examining Groups I - IV together would constitute a serious burden. Rather, the Examiner admits that Groups I and II- IV are related as product and a process (See restriction requirement at pg. 3.)

Applicant respectfully submits that the search and examination of the subject matter of all of pending claims would not constitute a serious burden.

For this reason, and to avoid unnecessary delay and duplicative examination by the Patent Office, Applicant respectfully requests that the restriction requirement be withdrawn.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: July 20, 2009

By:   
Elizabeth M. Burke  
Reg. No. 38,758  
(202) 408-4000